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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,349	07/14/2003	John D. Donnelly	71506-0003	1348
20915	7590	06/22/2005	EXAMINER	
MCGARRY BAIR PC 171 MONROE AVENUE, N.W. SUITE 600 GRAND RAPIDS, MI 49503			JOHNSON, BLAIR M	
			ART UNIT	PAPER NUMBER
			3634	

DATE MAILED: 06/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/604,349

Applicant(s)

DONNELLY, JOHN D.

Examiner

Blair M. Johnson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-6, 8-12, 17-24, 29-33, 35-39, 44-51 and 55-68 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 58-61 and 65-68 is/are allowed.
- 6) ☒ Claim(s) 2-6 8-12 17 23 24 29-33 35-39 44 50 51 55-57 and 62 -64 is/are rejected.
- 7) ☒ Claim(s) 18-22 and 45-49 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

Claim Rejections - 35 USC § 112

Claims 6,23,24,33,50 and 51 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The "complex pulley" has not been adequately disclosed. Also, cable brake of Figs. 10 and 11 is not understood. It is not disclosed how the brake is supported, supported for reciprocal movement, maintained in position, etc.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the complex pulley must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for

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consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

Claims 29,32,33,35,38,39,44,50,56,57,63 and 64 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hawks et al.

See the embodiment of Fig. 2. See cable 32', counterweight 14, pulleys 44,48, bracket 34, and covers, unnumbered, both removable and the side jamb which has the opening for the cable 32'. Since the door has not actually be recited, claims 3 and 30 do not contribute structural limitations. See also the adjuster/dampening system, Fig. 3, which is mounted to the door frame.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2,4-6,8,10-12,17,23,31 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawks et al.

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The location of the cover is obvious. Locating it on the jamb 41 would constitute a mere obvious relocation not affecting the operation of the device. Locating it on the jamb would prevent unsightly location on the frame or wall surfaces.

The material of the cable is clearly an obvious design choice. The use of nylon would have been obvious based on economics, it's quiet nature, etc.

Claims 3,9,30 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawks et al in view of Plum et al.

The use of the closing device with a screen door is taught by Plum et al. It would have been obvious to use the Hawks et al device with a screen door.

The use of lead for a weight is well known, as illustrated by Plum et al in paragraph 0017. It would have been obvious to ensure that the weight of Hawks et al would be made of lead based on lead's low cost per weight ratio.

Allowable Subject Matter

Claims 58-61 and 65-68 are allowable.

Claims 18-22 and 45-49 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments have been fully considered but they are not persuasive.

Regarding the 112(1) rejection, Applicant has provided no enabling description of the complex pulley. A complex pulley presumably has a structure and provides

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dynamics distinct from a "simple" pulley. However, such has not been shown, discussed or otherwise disclosed. Consequently, claiming such a feature is improper.

The same is true, although to a lesser degree, of the cable brake. Applicant has not provided a best mode of carrying out this feature. It is improper to claim an aspect of the invention that is not adequately described.

The rejection of the dampening system is withdrawn.

Regarding Hawks, the location of the cover and attachment of the adjuster thereto has been addressed above in the rejection. Regarding claim 56, due to the dampening device of Hawks, a "drag force" is applied to the weight since the weight is not allowed to fall freely.

The adjuster device of Hawks is mounted inside the structure which reads on the broad "door frame". It is not seen to be a patentable step to mount the adjuster to the jamb or cover as such presents fixed surfaces to which the adjuster could be attached without effecting the location of the adjuster.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not


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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blair M. Johnson whose telephone number is (571) 272-6830. The examiner can normally be reached on Mon.-Fri., 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Blair M. Johnson
Primary Examiner
Art Unit 3634

BMJ
6/20/05